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| EXAMINER |
|---|
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| 2686 | |

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/848,347 | JEONG ET AL. |
| | Examiner | Art Unit |
| | Willie J. Daniel, Jr. | 2686 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on *12 November 2004*.
2a) ☐ This action is **FINAL**.     2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) *1,2,4-15 and 17-25* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1,2,4-15 and 17-25* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

1.  This action is in response to applicant's RCE amendment filed on 12 November 2004.

**Claims** 1-2, 4-15, 17-25 are now pending in the present application.

### *Continued Examination Under 37 CFR 1.114*

2.      A request for continued examination under 37 CFR 1.114, including the fee set forth

in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR

1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn

pursuant to 37 CFR 1.114. Applicant's submission filed on 12 November 2004 has been

entered.

### *Specification*

3.  The objection to the disclosure is withdrawn, as the proposed disclosure correction is

approved.

### *Claim Objections*

4.  **Claims 9, 22** are objected to because of the following informalities:

  a.  **Claim 9** (see pg. 5, line 1) applicant states "a)comprises". Examiner suggests "a)

   comprises".

    b. **Claim 9** (see pg. 5, lines 4-5) applicant states "...transmit the application software are

stored." Examiner requests the applicant to clarify the claim language by using

terminology that relates to the claimed invention of the instant application.

    c. **Claim 22** (see pg. 8, lines 2-3) applicant states "...station is shortage." Examiner

requests the applicant to clarify the claim language and suggests, for example,

"....station is shortage of storing space."

Appropriate correction is required.

5.   This list of examples is not intended to be exhaustive.

*Claim Rejections - 35 USC § 103*

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

**Claims 1-2, 4-8, 12-15, 17-19, 24-25** are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Fette et al.** (hereinafter Fette) (**US 6,052,600**) in view of **Kawamata et al.**

(hereinafter Kawamata) (**US 6,820,259 B1**).

    Regarding **Claim 1**, Fette discloses a method of distributing application software

applied to an application software distribution system (114) (see col. 2, lines 34-58; col. 3,

lines 22-42; Figs. 1, 3, and 4), comprising the steps of:

    a) initializing to distribute application software files to a mobile station (200) (see col. 4,

lines 30-34), where the mobile is being prepared for a software upgrade;

b) receiving an application software transmission/reception requiring message from the

mobile station (200) (see col. 4, lines 26-29);

c) if the application software transmission requiring message is received, transmitting the

application software file to the mobile station (200) (see col. 4, lines 25-36; col. 3, lines 22-

42; Fig. 3); and

d) if the application software reception requiring message is received, receiving the

application software file from the mobile station (200) (see col. 9, lines 20-28; Fig. 4), where

the mobile user transmits information related to applications contained on the mobile station

which will update the database of the server,

wherein c) includes:

c2) opening an application software file to be transmitted (see col. 3, lines 22-41; col. 4,

lines 34-35), where the opening of the application would be inherent; and

c3) transmitting the application software file to the mobile station (200) (see col. 4, lines

34-35). Fette fails to disclose having the feature constructing a transmission plan in the

application software distribution system and transferring a transmission plan message to the

mobile station via the application software distribution system. However, the examiner

maintains that the feature constructing a transmission plan in the application software

distribution system and transferring a transmission plan message to the mobile station via the

application software distribution system was well known in the art, as taught by Kawamata.

In the same field of endeavor, Kawamata discloses the feature constructing a

distribution software list which reads on the claimed "transmission plan" in the software

distribution station (100) which reads on the claimed "application software distribution

system" and transferring a transmission plan message to the terminal apparatus (150) which

reads on the claimed "mobile station" via the application software distribution system (100)

(see col. 3, lines 11-30,55-62; col. 4, lines 15-25; Figs. 1-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Fette and Kawamata to have the feature

constructing a transmission plan in the application software distribution system and

transferring a transmission plan message to the mobile station via the application software

distribution system, in order to provide a distribution system capable of correctly and easily

updating software, as taught by Kawamata (see col. 1, lines 36-38).

Regarding **Claim 2**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 1), in addition Fette further discloses the

method as recited in claim 1, before, further comprises: e) generating a thread in the

application software distribution system (see col. 4, lines 25-35; Fig. 3), where the system

provides the software instructions to carry out the software upgrade or configuration in which

the thread would be inherent.

Regarding **Claim 4**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 2), in addition Fette further discloses the

method as recited in claim 2, before c1) further comprises:

c4) transmitting a response message to the application software transmission requiring

message (see col. 4, lines 25-36; Fig. 3), where the message is sent containing the software.

Regarding **Claim 5**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 2), in addition Fette further discloses the

method as recited in claim 2, wherein d) comprises:

d1) constructing a reception plan in response to an application software reception

requiring message (see col. 4, lines 25-36; Fig. 3), where the constructing plan would be

inherent;

d2) receiving application software file packets (see col. 4, lines 25-36; col. 8, lines 16-21;

Fig. 3);

d3) determining whether there is an error in the application software file packets (see col.

8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4); and

d4) if there is no error in the application software file packet, storing the application

software file packets (see col. 5, lines 41-48; col. 7, lines 6-12; col. 8, lines 22-31; col. 8, line

49 - col. 9, line 13; Figs. 3 and 4).

Regarding **Claim 6**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 5), in addition Fette further discloses the

method as recited in claim 5, before b), further comprises:

f) confirming that the mobile station (200) is a service subscriber (see col. 8, lines 3-14;

Figs. 3 and 4), where the license is checked to make sure the mobile station is a subscriber.

Regarding **Claim 7**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 4), in addition Fette further discloses the

method as recited in claim 4, further comprises:

c5) if all of the application software files are transmitted, transmitting an application

software transmission completion packet to the mobile station (see col. 9, lines 5-14; col. 9,

line 66 - col. 10, line 7; Fig. 4);

c6) receiving an application software transmission requirement releasing message from

the mobile station (200) (see col. 9, line 5-14), where a releasing message sent by the mobile

would be inherent for successful completion of application transmission; and

c7) terminating the thread (see col. 9, lines 5-14; col. 9, line 66 - col. 10, line 7; Fig. 4).

Regarding **Claim 8**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 7), in addition Fette further discloses the

method as recited in claim 7, wherein the application software distribution system (114)

stores charging information to make a user of the mobile station (200) chargeable for an

execution of said application software program (see col. 3, line 58 - col. 4, line 2; col. 4,

lines 37-39).

Regarding **Claim 12**, Fette discloses a method of distributing application software file

applied to a mobile station (200) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and

4), comprises:

a) performing an initialization in the mobile station (200) (see col. 4, lines 30-34), where

the mobile is being prepared for a software upgrade;

b) transmitting an application software transmission/reception requiring message to an

application software distribution system (114) (see col. 4, lines 26-33);

c) if the application software transmission requiring message is transmitted, receiving

an application software file from the application software distribution system (114) (see col. 4, lines 25-36; Fig. 3); and

d) if the application software reception requiring message is transmitted, transmitting the application software file (see col. 4, lines 25-36; Figs. 3 and 4), where the software file is transmitted to the mobile station,

wherein c) includes:

c2) constructing a reception plan (see col. 4, lines 26-36; Fig. 3), where the plan would be inherent for receiving of software;

c3) receiving an application software transmission start packet from the application software distribution system (see col. 3, lines 22-41; col. 4, lines 26-36; Fig. 3), where the start packet would be inherent in the transmitting of the software to the mobile station;

c4) standing by to receive the application software file (see col. 3, lines 22-41; col. 4, lines 26-36; Fig. 3), where the mobile station is prepared to receive software;

c5) receiving the application software file from the application software distribution system (114) (see col. 3, lines 22-41; col. 4, lines 33-39), where the mobile station (200) receives the software from the SDC (114); and

c6) storing the application software file (see col. 3, lines 22-41; col. 4, lines 33-39; col. 5, lines 40-49), where the mobile station stores the software in the memory. Fette fails to disclose having the feature receiving a transmission plan message from an application software distribution system. However, the examiner maintains that the feature receiving a transmission plan message from an application software distribution system was well known in the art, as taught by Kawamata.

Kawamata further discloses the feature receiving a transmission plan message from an application software distribution system (100) (see col. 3, lines 11-30,55-62; col. 4, lines 15-25; Figs. 1-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Kawamata to have the feature receiving a transmission plan message from an application software distribution system, in order to provide a distribution system capable of correctly and easily updating software, as taught by Kawamata (see col. 1, lines 36-38).

Regarding **Claim 13**, the combination of Fette and Kawamata discloses every limitation claimed, as applied above (see claim 12), in addition Fette further discloses the method as recited in claim 12, after c), further comprising:

e) installing the application software file (see col. 4, line 36; Fig. 3), where the mobile radio loads the software.

Regarding **Claim 14**, the combination of Fette and Kawamata discloses every limitation claimed, as applied above (see claim 13), in addition Fette further discloses the method as recited in claim 13, before a), further comprising:

f) selecting an application software program necessary for the mobile station, if there is no necessary application software file (see col. 4, lines 26-36), where the SDC queries with vendors for updates when the SDC doesn't have the latest software version or updates.

Regarding **Claim 15**, the combination of Fette and Kawamata discloses every limitation claimed, as applied above (see claim 14), in addition Fette further discloses the method as recited in claim 14, after b), further comprising:

g) receiving a response to the application software reception requirement message (see

col. 4, lines 34-36; Figs. 3 and 4).

Regarding **Claim 17**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 12), in addition Fette further discloses the

method as recited in claim 12, after c5), further comprising:

c7) performing an error checking of the application software file (see col. 8, lines 16-32;

col. 9, lines 5-13; Fig. 3 and 4).

Regarding **Claim 18**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 15), in addition Fette further discloses the

method as recited in claim 15, wherein e) comprises:

e1) receiving an application software transmission completion packet from the

application software distribution system (114) (see col. 9, lines 5-14; col. 9, line 66 - col. 10,

line 7; Fig. 4);

e2) determining whether there is an error in the application software file (see col. 8, lines

22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4); and

e3) if there is no error in the application software file, installing the application software

file (see col. 5, lines 41-48; col. 7, lines 6-12; col. 8, lines 22-31; col. 8, line 49 - col. 9, line

13; Figs. 3 and 4).

Regarding **Claim 19**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 18), in addition Fette further discloses the

method as recited in claim 18, further comprising:

performing a data backup for information concerned with the user of the mobile station

(200) through a data backup equipment, when the mobile station (200) is not used for a

constant period by automatically checking a using period of the user of the mobile station

(see col. 9, lines 24-48; Figs. 1 and 4), where the server and record computer keeps track of

data such as programs, records, license grants, and billing information associated with the

user.

Regarding **Claim 24**, Fette discloses a computer readable record medium storing

instructions for executing a method for distributing application software applied to an

application software distribution system (114) (see col. 2, lines 34-58; col. 3, lines 22-42;

Figs. 1, 3, and 4), the method comprising:

a) initializing to distribute application software files to a mobile station (200) (see col. 4,

lines 30-34);

b) receiving an application software transmission/reception requiring message from the

mobile station (200) (see col. 4, lines 26-29);

c) if the application software transmission requiring message is received, transmitting the

application software file to the mobile station (200) (see col. 4, lines 25-36; Fig. 3); and

d) if the application software reception requiring message is received, receiving the

application software file from the mobile station (200) (see col. 9, lines 20-28; Fig. 4), where

the mobile user transmits information related to applications contained on the mobile station

which will update the database of the server,

wherein c) includes:

c2) opening an application software file to be transmitted (see col. 3, lines 22-41; col. 4,

lines 34-35), where the opening of the application would be inherent; and

c3) transmitting the application software file to the mobile station (200) (see col. 4, lines

34-35). Fette fails to disclose having the feature constructing a transmission plan in the

application software distribution system and transferring a transmission plan message to the

mobile station via the application software distribution system. However, the examiner

maintains that the feature constructing a transmission plan in the application software

distribution system and transferring a transmission plan message to the mobile station via the

application software distribution system was well known in the art, as taught by Kawamata.

Kawamata further discloses the feature constructing a distribution software list which

reads on the claimed "transmission plan" in the software distribution station (100) which

reads on the claimed "application software distribution system" and transferring a

transmission plan message to the terminal apparatus (150) which reads on the claimed

"mobile station" via the application software distribution system (100) (see col. 3, lines 11-

30,55-62; col. 4, lines 15-25; Figs. 1-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the teachings of Fette and Kawamata to have the feature

constructing a transmission plan in the application software distribution system and

transferring a transmission plan message to the mobile station via the application software

distribution system, in order to provide a distribution system capable of correctly and easily

updating software, as taught by Kawamata (see col. 1, lines 36-38).

Regarding **Claim 25**, Fette discloses a computer readable record medium storing

instructions for executing a method for distributing application software applied to a mobile

station (200) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), the method

comprising:

a) performing an initialization in the mobile station (200) (see col. 4, lines 30-34), where

the mobile is being prepared for a software upgrade;

b) transmitting an application software transmission/reception requiring message to an

application software distribution system (114) (see col. 4, lines 26-33);

c) if the application software transmission requiring message is transmitted, receiving an

application software file from the application software distribution system (114) (see col. 4,

lines 25-36; Fig. 3); and

d) if the application software reception requiring message is transmitted, transmitting the

application software file (see col. 4, lines 25-36; Figs. 3 and 4), where the software file is

transmitted to the mobile station,

wherein c) includes:

c2) constructing a reception plan (see col. 4, lines 26-36; Fig. 3), where the plan would be

inherent for receiving of software;

c3) receiving an application software transmission start packet from the application

software distribution system (see col. 3, lines 22-41; col. 4, lines 26-36; Fig. 3), where the

start packet would be inherent in the transmitting of the software to the mobile station;

c4) standing by to receive the application software file (see col. 3, lines 22-41; col. 4,

lines 26-36; Fig. 3), where the mobile station stands by to receive software;

c5) receiving the application software file from the application software distribution

system (114) (see col. 3, lines 22-41; col. 4, lines 33-39), where the mobile station (200)

receives the software from the SDC (114); and

c6) storing the application software file (see col. 3, lines 22-41; col. 4, lines 33-39; col. 5,

lines 40-49), where the mobile station stores the software in the memory. Fette fails to

disclose having the feature receiving a transmission plan message from an application

software distribution system. However, the examiner maintains that the feature receiving a

transmission plan message from an application software distribution system was well known

in the art, as taught by Kawamata.

Kawamata further discloses the feature receiving a transmission plan message from

an application software distribution system (100) (see col. 3, lines 11-30,55-62; col. 4, lines

15-25; Figs. 1-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the teachings of Fette and Kawamata to have the feature

receiving a transmission plan message from an application software distribution system, in

order to provide a distribution system capable of correctly and easily updating software, as

taught by Kawamata (see col. 1, lines 36-38).


**Claims 9-11, 20-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et**

**al.** (hereinafter Fette) (**US 6,052,600**) in view of **Kawamata et al.** (hereinafter Kawamata)

(**US 6,820,259 B1**) as applied to claims 1, 12 above, and further in view of **Criss et al.**

(hereinafter Criss) (**US 6,735,434 B2**).

Regarding **Claim 9**, the combination of Fette and Kawamata discloses every

limitation claimed, as applied above (see claim 1), in addition Fette further discloses of the

method wherein a) comprises:

a1) generating a program identifier (PID) allocated to transmit the application

software transmission plan message (see col. 4, lines 25-36), where a program identity would

be inherent. The combination of Fette and Kawamata fails to disclose having the feature

storing the PID and an internet protocol address allocated to transmit the application software

are stored. However, the examiner maintains that the feature storing the PID and an internet

protocol address allocated to transmit the application software are stored was well known in

the art, as taught by Criss.

In the same field of endeavor, Criss discloses the feature storing the PID and an

internet protocol (IP) address allocated to transmit the application software are stored (see

col. 11, line 63 - col. 12, line 26; Figs. 4, 7a-b).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Fette, Kawamata, and Criss to have the

feature storing the PID and an internet protocol address allocated to transmit the application

software are stored, in order to have a system and method in which software upgrades are

provided wirelessly to mobile devices which does not require significant down time and

service costs, as taught by Criss (see col. 2, lines 45-52).

Regarding **Claim 10**, the combination of Fette, Kawamata, and Criss discloses

everything claimed, as applied above (see claim 9), in addition Fette further discloses of

performing a data backup for information concerned with the user of the mobile station (200)

through a data backup equipment, when the mobile station is not used for a constant period by automatically checking a using period of the user of the mobile station (200) (see col. 9, lines 24-48; Figs. 1 and 4), where the server and record computer keeps track of data such as programs, records, license grants, and billing information associated with the user.

Regarding **Claim 11**, the combination of Fette, Kawamata, and Criss discloses everything claimed, as applied above (see claim 10), in addition Fette further discloses wherein the application software distribution system (114) differentially provides a storing space in accordance with an age or an occupation of the user of the mobile station (200) (see col. 4, lines 4-16; col. 9, lines 39-49; Figs. 1 and 4), where the record keeping is based on the user's occupation.

Regarding **Claim 20**, the combination of Fette, Kawamata, and Criss discloses everything claimed, as applied above (see claim 12), in addition Fette further discloses the method as recited in claim 12, wherein the step a) comprises:

a1) generating a program identifier (PID) allocated to transmit the application software transmission plan message (see col. 4, lines 25-36), where a program identity would be inherent. The combination of Fette and Kawamata fails to disclose having the feature storing the PID and an internet protocol address allocated to transmit the application software are stored. However, the examiner maintains that the feature storing the PID and an internet protocol address allocated to transmit the application software are stored was well known in the art, as taught by Criss.

Criss further discloses the feature storing the PID and an internet protocol (IP)

address allocated to transmit the application software are stored (see col. 11, line 63 - col. 12,

line 26; Figs. 4, 7a-b).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Fette, Kawamata, and Criss to have the

feature storing the PID and an internet protocol address allocated to transmit the application

software are stored, in order to have a system and method in which software upgrades are

provided wirelessly to mobile devices which does not require significant down time and

service costs, as taught by Criss (see col. 2, lines 45-52).

Regarding **Claim 21**, the combination of Fette, Kawamata, and Criss discloses

everything claimed, as applied above (see claim 20), in addition Fette further teaches wherein

the application software distribution system (114) differentially provides a storing space in

accordance with an age or an occupation of the user of the mobile station (200) (see col. 4,

lines 4-16; col. 9, lines 39-49; Figs. 1 and 4), where the record keeping is based on the user's

occupation.

Regarding **Claim 22**, the combination of Fette and Kawamata fails to disclose having

the feature wherein the mobile station deletes the application software or transmits the

application software to the storing space of the application software distribution system, if

the storing space of the mobile station is shortage. However, the examiner maintains that the

feature wherein the mobile station deletes the application software or transmits the

application software to the storing space of the application software distribution system, if

the storing space of the mobile station is shortage was well known in the art, as taught by Criss.

Criss further discloses the feature wherein the mobile station deletes the application software or transmits the application software to the storing space of the application software distribution system, if the storing space of the mobile station is shortage (see col. 14, lines 31-62), where the mobile station deletes the old version to save storing space in the memory.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Kawamata, and Criss to have the feature wherein the mobile station deletes the application software or transmits the application software to the storing space of the application software distribution system, if the storing space of the mobile station is shortage, in order to have a system and method in which software upgrades are provided wirelessly to mobile devices which does not require significant down time and service costs, as taught by Criss (see col. 2, lines 45-52).

Regarding **Claim 23**, the combination of Fette and Kawamata fails to disclose having the feature automatically connecting to a server designated by a uniform resource locator (URL) of a specified site, when the application software file distributed from the application software distribution system is executed, the URL being set inside the application software. However, the examiner maintains that the feature automatically connecting to a server designated by a uniform resource locator (URL) of a specified site, when the application software file distributed from the application software distribution system is executed, the URL being set inside the application software was well known in the art, as taught by Criss.

Criss further discloses the feature automatically connecting to a server designated by

a uniform resource locator (URL) of a specified site, when the application software file

distributed from the application software distribution system is executed, the URL being set

inside the application software (see col. 19, lines 56 - col. 20, line 19; Figs. 7a-e and 14a-d).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Fette, Kawamata, and Criss to have the

feature automatically connecting to a server designated by a uniform resource locator (URL)

of a specified site, when the application software file distributed from the application

software distribution system is executed, the URL being set inside the application software,

in order to have a system and method in which software upgrades are provided wirelessly to

mobile devices which does not require significant down time and service costs, as taught by

Criss (see col. 2, lines 45-52).

## *Response to Arguments*

7.         Applicant's arguments with respect to claims 1-2, 4-15, 17-25 have been considered

but are moot in view of the new ground(s) of rejection.

## *Conclusion*

8.         The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

    a.   Criss et al. (US 6,643,506 B1) discloses "Wireless Software Upgrades With Version

       Control".

9.         Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-

8636.  The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379.  The fax phone

number for the organization where this application or proceeding is assigned is 703-872-

9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information

for unpublished applications is available through Private PAIR only. For more information

about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access

to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197

(toll-free).

WJD,JR
24 January 2005

*Marsha D Banks-Harold*
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